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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 44714
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR-FE-2016-3079
v.)	
)	
TYLER CLIFF KNARR,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Tyler Knarr pled guilty to trafficking in heroin and the district court imposed a unified sentence of twenty years, with twelve years fixed. On appeal, Mr. Knarr asserts that his sentence is excessive under the circumstances, representing an abuse of the district court's discretion.

Statement of the Facts & Course of Proceedings

During an investigation into the distribution of heroin in the Boise area, undercover agents posing as buyers made a series of purchases from Audri Foster and

her boyfriend, Caven King, who identified Mr. Knarr a supposed “source.” (PSI, p.4.)¹ Mr. Knarr was on parole at the time, having been previously convicted of marijuana trafficking. (PSI, p.4.) On March 2, 2016, the agents, accompanied by Mr. Knarr’s parole officer, arrived at Mr. Knarr’s home; Mr. Knarr cooperated and helped them locate heroin – under five grams – kept in a black bag under the sink in his bathroom, and agents also discovered approximately \$4,360 in cash rolled up with rubber bands. (PSI, pp.4, 17, 96.)

The State charged Mr. Knarr with conspiracy to traffic in heroin, trafficking in heroin, and possession of paraphernalia. (R., pp.31-33, 92-93.) Pursuant to the terms of an agreement, Mr. Knarr pled guilty to a two-part Information that charged him with trafficking in heroin and having a previous trafficking conviction, thus subjecting him to a mandatory minimum fixed term of six years imprisonment. (R., pp.104-105; Tr., p.18, Ln.11 - p.19, Ln.23.) In exchange for his pleas, the State agreed to dismiss the conspiracy and paraphernalia charges; the State was free to argue for a sentence greater than the minimum, and Mr. Knarr could argue for the minimum sentence allowed by law. (R., pp.106, 108; Tr., p.13, Ls.23-25.)

At the sentencing hearing, Mr. Knarr asked the district court to consider his heroin addiction and attempts to get help, along with his employable skills as a certified welder, and requested a fixed term of six years – the minimum allowed by law. (Tr., p.36, Ls.10-21.) The State emphasized Mr. Knarr’s criminal history and asked the court to impose a ten-year fixed term. (Tr., p.30, Ls.14-24.) The district court imposed

¹ Citations to the Presentence Investigation Report and attached materials will use the designation “PSI” and will include the page numbers associated with the 140-page electronic file containing those documents.

a unified twenty-year sentence, with twelve years fixed, exceeding even the State's request. (R., pp.116-118.; Tr., p.38, Ls.40-15.) Mr. Knarr timely appealed. (R., p.127.)

ISSUE

Did the district court abuse its discretion by imposing a sentence that is excessive in light of the mitigating circumstances in this case?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Sentence That Is Excessive In Light Of The Mitigating Circumstances In This Case

A. Introduction

Mr. Knarr asserts that, given any view of the facts, his unified sentence of twenty years, with twelve years fixed, is excessive.

B. Standard Of Review

Where a defendant challenges his sentence as excessively harsh, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *State v. Miller*, 151 Idaho 828, 834 (2011). The Court reviews the district court's sentencing decisions for an abuse of discretion, which occurs if the district court imposed a sentence that is unreasonable, and thus excessive, "under any reasonable view of the facts." *State v. Strand*, 137 Idaho 457, 460 (2002); *State v. Toohill*, 103 Idaho 565, 568 (Ct. App. 1982). "A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution." *Miller*, 151 Idaho at 834.

C. Mr. Knarr's Sentence is Excessive in Light of the Mitigating Circumstances in this Case

Mr. Knarr was 29 years old at the time of sentencing. (PSI, p.1.) His history with drug addiction, and his potential for overcoming that addiction, are mitigating factors in this case. See *State v. Coffin*, 146 Idaho 166, 171 (Ct. App. 2008); *State v. Nice*, 103 Idaho 89, 91 (1982).

For years, Mr. Knarr has struggled with addiction and dependency involving a number of substances: methamphetamine, marijuana, and most recently, heroine. (PSI, pp.27, 163). Prior to his release on parole in the previous case, in March of 2015, Mr. Knarr worked to overcome his addiction, and completed the Lifeline Therapeutic Community Program offered at Idaho State Correctional Center. (PSI, p.17.) While on parole, he stayed away from drugs, for a time, and began working again as a skilled welder and taking care of his wife and the two young children living with them: his son and stepdaughter. (PSI, p.27.)

However, living drug free remained elusive for Mr. Knarr, and within a few months he relapsed and began using drugs again, triggered by the death of his paternal grandmother. (PSI, p.12.) He began with pills, and when that became too expensive, he started using heroine, which, as he told the court, “really grabbed me.” (Tr., p.38, Ln.1.) He was desperate to stop his heroin use and “tried to kick it” a number of times on his own. (PSI, p.17.) He even reached out to his parole officer, disclosing his struggle and failure, (PSI, p.17), and announced his plan to go to Allumbaugh House – a residential treatment facility in Boise – in order to detox and then seek methadone treatment. (PSI, p.17) Mr. Knarr checked himself into the facility, albeit briefly, and had been clean for the few days leading up to his arrest for this offense. (PSI, p.278.)

Mr. Knarr stands committed to make the necessary changes, for the sake of his family. In his letter to the sentencing court, he wrote:

I come before you a humble and broken man... I've hurt so many people, but none more than my family. My family means so much to me and it pains me not to be allowed to be a father. My family are now my driving factor.

I'm trying to improve myself in here instead of just "doing time." I promise to make the most of the classes and education available in prison and will be a better person when I'm released.

(PSI, p.276.)

Mr. Knarr's comments show he has taken responsibility for actions that he knows harmed others, and that he knows were wrong. (PSI, p.276.) His remorse and responsibility for his actions also serve as mitigation in his case. See *State v. Coffin*, 146 Idaho 166, 171 (Ct. App. 2008).

In light of the mitigating circumstances presented in this case, and notwithstanding the aggravating ones, Mr. Knarr's twenty-year sentence, with twelve years fixed, is excessive and therefore unreasonable, representing an abuse of discretion.

CONCLUSION

Mr. Knarr respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 20th day of April, 2017.

_____/s/_____
KIMBERLY A. COSTER
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 20th day of April, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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ISCI
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E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

KAC/eas